

EXHIBIT A

BRITISH VIRGIN ISLANDS
IN THE HIGH COURT OF JUSTICE
(COMMERCIAL)

BVIHCV NO:74 of 2009

BETWEEN:

BANK JULIUS BAER & COMPANY LIMITED
AND SNS GLOBAL CUSTODY BV

Applicants

vs.

KENNETH KRYS
JOANNA LAU (joint liquidators of Fairfield Lambda
(in liquidation)

Respondent

BVIHCV NO: 136 of 2009

BETWEEN:

ABN AMRO FUND SERVICES (Isle of Man)
NOMINEES LIMITED (Formerly Fortis (Isle of Man
Nominees Limited)
BANK JULIUS BAER AND CO. LIMITED
SNS GLOBAL CUSTODY BV
DEUTSCH BANK TRUST COMPANY LIMITED

Applicants

vs.

FAIRFIELD SENTRY LIMITED

Respondent

BVIHCV NO: 139 of 2009

BETWEEN:

USB AG NEW YORK

Applicant

vs.

JERSEY NOMINEES LIMITED
USB LUXEMBOURG
USB FUNDS SERVICES
USB ZURICH

vs.

KENNETH KRYS
JOANNA LAU (as joint liquidators of Fairfield
Sigma Limited and Fairfield Lambda (in liquidation)

Respondents

TRANSCRIPT OF TRIAL PROCEEDINGS

Monday, March 23rd 2015
10:00 a.m. to 4:25 p.m.

SUBMISSIONS BY MR. MARK HAPGOOD, QC
SUBMISSIONS BY MR. STEVEN RUBIN, QC
SUBMISSIONS BY MR. GABRIEL MOSS, QC

BEFORE: HONOURABLE JUSTICE BARRY LEON, Judge (Ag)

Court Reporting Unit
Government of the British Virgin Islands
Road Town, Tortola
British Virgin Islands

1 pursing this case, it's a quicker way of doing it from
2 the actual way of going through all the complaints in
3 the amended defence.

4 THE COURT: And the
5 Insolvency Act proceedings in the BVI still could be
6 brought?

7 MR. HAPGOOD: There are no
8 Insolvency Act proceedings in the BVI.

9 THE COURT: No, but they
10 could be brought?

11 MR. HAPGOOD: Yes.

12 THE COURT: There's no time
13 bar?

14 MR. HAPGOOD: No limitation
15 period has yet accrued. Whether Sentry has taken
16 protective steps or might take protective steps, that's
17 entirely a matter for them to decide. But we can't
18 have reached any, the expiry of any six-year period
19 because the earliest winding up order against any
20 Sentry company was some time in April 2009. I think,
21 it was April 2009 and so we don't get to six years
22 until the middle of next month. And I say if they want
23 to take protective steps, that's up to them. But I
24 mean they have been on notice with this application
25 since, well, since for years and it's been on hold

1 pending the hearings before the Court of Appeal and the
2 Privy Council.

3 Now, so that's these applications.

4 Now may I move on rapidly to those bits
5 of the BVI proceedings that haven't been recovered.
6 Before I do so I think I'd better show the Memorandum
7 and Articles of Association. That's Volume 5A at tab
8 1. You can see from page 1, these are the memorandum
9 and articles of Fairfield Sentry Limited and then
10 there's a list of when these documents were amended and
11 then there's a recent amendment or the last amendment
12 made was registered on the 10th of October 2003.

13 At page 6 the Articles of Association,
14 the amended and restated Articles of Association begin.
15 In the definitions in section, in Article 1 --

16 THE COURT: Page numbering
17 you are using is the top page number?

18 MR. HAPGOOD: No, the bottom
19 right, sorry. Page 6, bottom right. That should be
20 the start of the Amended and Restated Articles of
21 Association.

22 Now there are four definitions I am going
23 to show you. First:

24 "Act, means the International Business
25 Companies Act as amended from time to time."